

## REQUEST FOR COUNCIL ACTION

MEETING 181  
DATE: 03-03-03

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-8
ITEM DESCRIPTION: Vacation Petition #03-01 by Robert and Linda Johnson to vacate Right-of-Way. The applicant is requesting to vacate a 25.5 foot wide reserved and excepted right-of-way adjoining to and southwesterly of the northeasterly line of Terryville Subdivision.		PREPARED BY: Theresa Fogarty, Planner

February 24, 2003

### Planning Department Recommendation:

See attached staff report dated February 4, 2003.

Staff recommends approval of the vacation petition as submitted.

The Planning & Zoning Commission reviewed this vacation request at the February 12, 2003 meeting. The Commission recommended approval of the vacation petition.

Ms. Rivas moved to recommend approval of Vacation Petition #03-01 by Robert and Linda Johnson. Mr. Ohly second the motion. The motion carried 6-0.

### Council Action Needed:

1. Following the hearing, if the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution to approve the vacation petition as recommended by the City Planning and Zoning Commission.

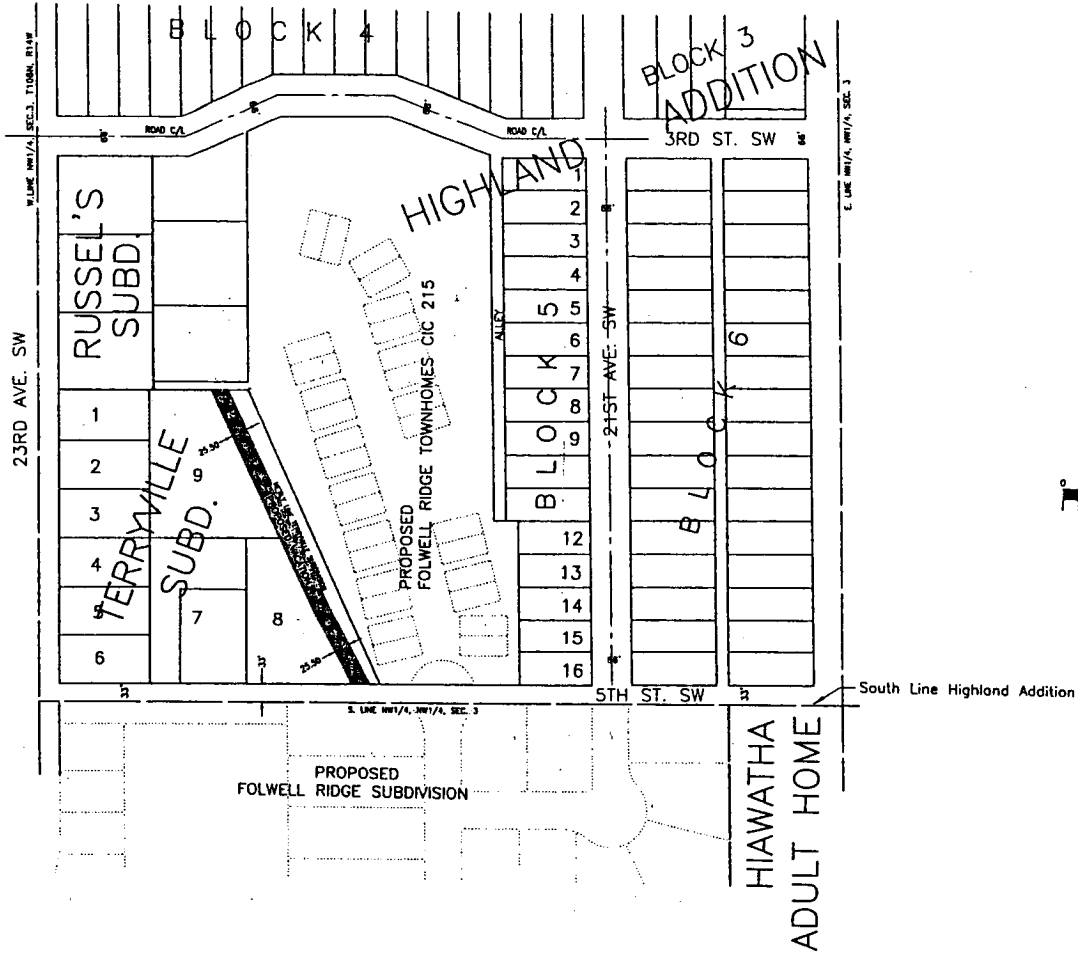
### Attachments:

1. Staff Report dated February 4, 2003.
2. Minutes of the CP&ZC February 12, 2003 meeting

### Distribution:

1. City Administrator
2. City Clerk
3. City Attorney: Copy of legal description is attached
4. Planning Department File
5. Applicants: This item will be considered by the Council sometime after 7:00 p.m. on Monday, March 3, 2003, in the Council/Board Chambers at the Government Center, 151 4<sup>th</sup> Street SE, Rochester, MN.
6. Yaggy Colby Associates

COUNCIL ACTION: Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_ to: \_\_\_\_\_



**RECEIVED**  
JAN 13 2003  
ROCHESTER OLIMSTED  
PLANNING DEPARTMENT

PROJECT NUMBER	8122
COMPUTER FILE	8122VACATED1.DWG
DATE	1/3/2003
DRAWN BY	PO
CHECKED BY	OR
REVISIONS	
SHEET NUMBER	1
OF	1 SHEETS

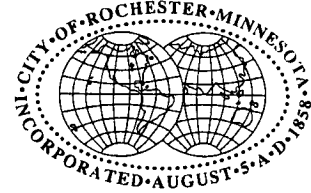
**TERRYVILLE SUBDIVISION**  
ROCHESTER, MINNESOTA  
**PROPOSED STREET VACATION**

NUMBER	DATE

**YAGGY COLBY ASSOCIATES**  
ENGINEERS • ARCHITECTS  
SURVEYORS • PLANNERS  
LANDSCAPE ARCHITECTS  
717 THIRD AVENUE SOUTHEAST  
ROCHESTER, MINNESOTA 55904  
TEL 786-6444  
FAX 786-6444  
EMAIL INFO@YAGGY.COM

I HEREBY CERTIFY THAT THIS SURVEY PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A FULLY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

128/2



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ROCHESTER-OLMSTED  
PLANNING DEPARTMENT  
2122 CAMPUS DR SE  
ROCHESTER MN 55904-4744  
ADMINISTRATION/PLANNING 507/285-8232  
GIS/ADDRESSING/MAPPING 507/285-8232  
HOUSING/HRA 507/285-8224  
BUILDING CODE 507/285-8213  
WELL/SEPTIC 507/285-8345  
FAX 507/287-2275

**TO: City Planning and Zoning Commission**

**FROM: Theresa Fogarty, Planner**

**DATE: February 4, 2003**

**RE: Vacation Petition #03-01 by Robert and Linda Johnson, to vacate Right-of-Way. The applicant is requesting to vacate a 25.5 foot wide reserved and excepted right-of-way adjoining to and southwesterly of the northeasterly line of Terryville Subdivision.**

**Planning Department Review:**

Petitioner(s): Robert and Linda Johnson  
2135 SW 5<sup>th</sup> Street  
Rochester, MN 55902

Engineer / Architect: Yaggy Colby Associates  
717 Third Avenue SE  
Rochester, MN 55904

Reason to Vacate: Dedicated right-of-way was never developed and proposes no future use.

Referral Comments: Referral agencies responded with no objections

Report Attachments: 1. Vacation Petition  
2. Location Map

**Staff Recommendation:**

The applicants are requesting to vacate a 25.5 foot wide dedicated public right-of-way that adjoins to and is southwesterly along Lots 8 and 9, Terryville Subdivision, excluding the south 33 feet. The 25.5 foot right-of-way was dedicated in 1950 but has remained undeveloped.

The referral agencies have no objections to this vacation request and it appears that vacating the 25.5 foot wide dedicated right-of-way, requested by the applicant, will have not an adverse effect. Therefore, staff recommends approving this vacation petition, as submitted.

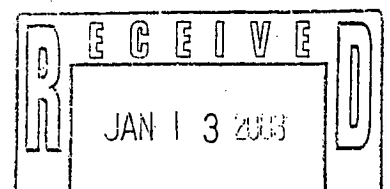


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11/20/02  
YCA #8122 (sd01.doc)  
PO

### VACATION DESCRIPTION

All of the 25.50 foot wide public right-of-way adjoining to and southwesterly of the northeasterly line of TERRYVILLE SUBDIVISION, according to the plat thereof on file at the County Recorder's office, Olmsted County, Minnesota, EXCEPT the south 33.00 feet thereof.



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TO: Mayor and Common Council  
City Hall  
City of Rochester, Minnesota 55901

PETITION TO VACATE PUBLIC RIGHT-OF-WAY OR UTILITY EASEMENT

We, the undersigned, are the owners of the following described property located within the City of Rochester, Minnesota, and we constitute 50% or more of the owners of the property on the line of the public property herein described to be vacated: (Describe here or attach a separate list showing the legal description and full ownership of each adjoining parcel.)

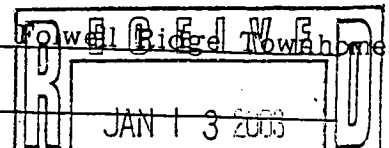
Owner Lots 8 & 9, Terryville Subdivision

We hereby petition the Common Council of the City of Rochester, Minnesota, to vacate the following described public property:

See attachment

The facts and reasons for such vacation are as follows:

1. The road was never built since the right-of-way dedication in 1950.
  2. There is no future use for the right-of-way area in question.
- Part of Lot 7, Terryville Subdivision, is owned by Glenn M. and Bonnie L. Bonnes and accesses 5th Street SW. The remainder of said Lot 7, and also Lots 8 and 9 of said subdivision are owned by the petitioners. The property to the east of the proposed vacation is currently being platted as Powell Ridge Townhomes CIC 215 and will access 5th Street SW exclusively.



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4. Vacation will enable the petitioners to maintain the vacated woods with the same care as their currently owned woods.

Your petitioner respectfully requests that such proceedings as shall be necessary to accomplish this vacation be instituted as soon as possible.

Note: In cases where the property is owned in joint tenancy, (Husband and wife, etc.) both owners must sign the petition.

<u>Linda K. Johnson</u>	2135 5th Street SW
Signature of Petitioner	Rochester, MN 55902
	Address
<u>Robert L. Johnson</u>	2135 5th Street SW
Signature of Petitioner	Rochester, MN 55902
	Address

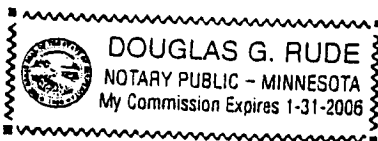
_____ Signature of Petitioner	_____ Address
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_____ Signature of Petitioner	_____ Address
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_____ Signature of Petitioner	_____ Address
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STATE OF MINNESOTA )  
COUNTY OF Olmsted )

On this 3<sup>rd</sup> day of January, 2003, before me, a Notary Public within and for said County personally appeared Linda K. Johnson and Robert L. Johnson, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged said instrument to be (his) (her) (their) free act and deed and that the facts set forth therein are true and correct to the best of (his) (her) (their) knowledge.

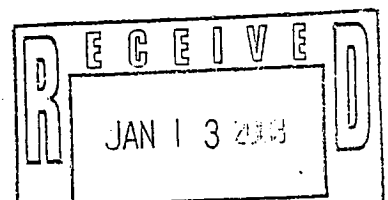


Douglas G. Rude  
Notary Public, Olmsted County Minnesota

My Commission Expires on 1-31-06

DISTRIBUTION:

- City Clerk (white copy)
- Consolidated Planning Department (canary copy)
- Petitioner (goldenrod copy)



Ms. Mitzi A. Baker presented the staff report, dated January 30, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

**Mr. Burke moved to recommend approval of Annexation Petition #03-02 by Payne Company. Mr. Ohly seconded the motion. The motion carried 6-0.**

**RIGHT-OF-WAY VACATION:**

\* **Vacation Petition #03-01, by Robert and Linda Johnson, to vacate Right-of-Way. The applicant is requesting to vacate a 25.5 foot wide reserved and excepted public right-of-way adjoining to and southwesterly of the northeasterly line of Terryville Subdivision.**

Ms. Mitzi A. Baker presented the staff report, dated February 4, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

**Ms. Rivas moved to recommend approval of Vacation Petition #03-01 by Robert and Linda Johnson. Mr. Ohly seconded the motion. The motion carried 6-0.**

**PUBLIC HEARINGS:**

**Land Subdivision Permit (preliminary plat) #03-01 by Bamber Valley Estates LLC to be known as Bamber Valley Estates. The Plat proposes to subdivide approximately 35 acres of land located north of Salem Road SW (CR 25) and east of Westhill Drive SW. The Plat proposes approximately 56 lots for single family development and 5 Outlots.**

Ms. Mitzi A. Baker presented the staff report, dated February 7, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Ms. Baker stated that the City can take action on a general development plan and preliminary plat before annexation, but no development permits or final plats could be approved.

Mr. Haeussinger asked why the property wouldn't be completely annexed before going through the process of getting a preliminary plat.

Ms. Kristi Clarke, of McGhie and Betts, Inc. addressed the Commission. She stated that the annexation was reviewed and approved by the City Council. However, they are waiting for final approval from the State of Minnesota.

Ms. Clarke stated that the applicant agrees with the staff-recommended conditions. However, they plan to change the width of Outlot A to 28 feet so that there can be parking on one side. She asked that the condition be reworded.

Ms. Baker stated that the condition also referred to no parking along Autumn Lake Avenue SW.

Ms. Clarke responded that they planned to only widen Outlot A to 28 feet.

Ms. Baker suggested the following wording for condition number 8 as follows: "No parking shall be allowed at any time along either side of Autumn Lake Avenue SW and shall be posted "No Parking." In addition, Outlot A is indicated at 28 feet in width and shall be posted "No Parking" parking along one side."

